

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ALLAN FLETCHER,

Plaintiff,

v.

CLENDENIN, *et al.*,

Defendants.

Case No. 1:22-cv-00249-AWI-BAM (PC)

ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE

(ECF No. 25)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Allan Fletcher (“Plaintiff”) is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institution Code § 6600 *et seq.* are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000). This action proceeds on Plaintiff’s first amended complaint against Defendants Clendenin and Price for failure to treat Plaintiff under the Fourteenth Amendment Due Process Clause due to their official policy.

On November 17, 2022, Defendants filed a motion to declare Plaintiff a vexatious litigant. (ECF No. 25.) Pursuant to Local Rule 230(l) and Federal Rule of Civil Procedure 6(d), Plaintiff’s opposition or statement of non-opposition was due on or before December 12, 2022. The deadline for Plaintiff to respond to Defendants’ motion to declare Plaintiff a vexatious litigant has

1 expired, and he has not filed an opposition or other response. Defendants have also filed a reply
2 requesting that the motion be deemed unopposed and granted. (ECF No. 26.) Nevertheless, in
3 light of Plaintiff's *pro se* status, the Court finds it appropriate to grant Plaintiff one final
4 opportunity to show cause why this action should not be dismissed with prejudice.

5 Accordingly, it is HEREBY ORDERED that Plaintiff shall show cause by WRITTEN
6 RESPONSE within **twenty-one (21) days** of service of this order why this action should not be
7 dismissed, with prejudice, for failure to prosecute. Plaintiff may comply with the Court's order
8 by filing an opposition or statement of non-opposition to Defendants' November 17, 2022 motion
9 to declare Plaintiff a vexatious litigant. **Plaintiff is warned that if he fails to comply with the**
10 **Court's order, this matter will be dismissed, with prejudice, for failure to prosecute and**
11 **failure to obey a court order.**

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13 IT IS SO ORDERED.

14 Dated: January 6, 2023

15 /s/ Barbara A. McAuliffe
16 UNITED STATES MAGISTRATE JUDGE
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